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## 11-22-2. Authority of state or political subdivision to establish port authority.

The state of Utah, or any county, municipality, or combination thereof, may establish, operate and maintain a port authority pursuant to provisions of the constitution and laws of the state of Utah and of the United States of America. Any port authority established by a municipality may be located within, partially within or outside of the boundaries of that city. The police power of a municipality extends to the entire area of any port authority established by that municipality. Any unit of government establishing a port authority may expend its public funds to establish, operate or maintain the same.

**History:** L. 1974, ch. 3, § 2.

### COLLATERAL REFERENCES

**Utah Law Review.** — Utah Legislative Survey — 1974, 1974 Utah L. Rev. 622.

## CHAPTER 23

### SPECIAL SERVICE DISTRICTS

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### 11-23-1. Short title.

This chapter shall be known and may be cited as the "Utah Special Service District Act."

**History:** C. 1953, 11-23-1, enacted by L. 1975, ch. 116, § 1; L. 1983, ch. 45, § 1.

**Amendment Notes.** — The 1983 amendment substituted "chapter" for "act."

#### COLLATERAL REFERENCES

**Utah Law Review.** — Utah Legislative Survey — 1975, 1975 Utah L. Rev. 790.

### 11-23-2. Definitions.

As used in this chapter:

(1) "County" means a county of this state and includes any such county regardless of the form of government under which it is operating.

(2) "Improvement district" means an improvement district established under Chapter 6, Title 17.

(3) "Governing authority" means the board or body, however designated, in which the general legislative powers of a county, municipality, or improvement district are vested and includes the board of commissioners of a county or a city of the first or second class, the city council of a city of the third class, the town council of a town, and the board of trustees of an improvement district.

(4) "Municipality" means a city or town of this state.

(5) "Service district" means a special service district established in the manner provided by this chapter under Article XIV, Section 8 of the Constitution of Utah.

(6) "Guaranteed bonds" mean bonds the annual debt service on which is or will be guaranteed by one or more taxpayers owning property within the boundaries of the service district.

(7) "Facility" or "facilities" means any structure, building, system, land, water right, and other real and personal property required to provide any service authorized by § 11-23-4, including, without limitation, all related and appurtenant easements and rights-of-way, improvements, utilities, landscaping, sidewalks, roads, curbs and gutters, and equipment and furnishings.

**History:** C. 1953, 11-23-2, enacted by L. 1975, ch. 116, § 2; L. 1977, ch. 46, § 1; 1983, ch. 45, § 2.

**Amendment Notes.** — The 1983 amendment substituted "chapter" for "act" in two

places; substituted "the town council of a town, and the board of trustees of an improvement district" in Subsection (3) for "and the board of trustees of a town or an improvement district"; and added Subsection (7).

### 11-23-3. Purpose.

The purpose of this chapter is to implement the provisions of Article XIV, Sec. 8 of the Constitution of Utah by providing authority for the establishment and operation of service districts within a county or municipality.

**History:** C. 1953, 11-23-3, enacted by L. 1975, ch. 116, § 3; L. 1983, ch. 45, § 3.

**Amendment Notes.** — The 1983 amendment substituted "chapter" for "act."

### 11-23-4. Establishing service districts.

(1) A county or a municipality may establish a service district for the purpose of providing within the area of the service district any of the following services or any combination of them: water, sewerage, drainage, flood control, garbage, hospital, transportation, recreation, fire protection, or street lighting. Snow removal services may be provided in service districts established under this section, to more effectively carry out the purposes of those service districts. These services may be provided through facilities or systems acquired or constructed for that purpose through construction, purchase, lease, contract, gift, or condemnation or any combination of the above.

(2) The area within any service district may include all or any part of the county or municipality which established it except that:

(a) a service district may not include the area of any other service district established by the same county or municipality which is then providing the same service proposed to be supplied by the new service district; and

(b) a service district established by a county may contain all or a part of any municipality or of an existing improvement district that provides the same service proposed to be provided by the service district but only with the consent of the governing authority as provided in a resolution or ordinance adopted by the governing authority. All parts of a service district need not be contiguous.

**History:** C. 1953, 11-23-4, enacted by L. 1975, ch. 116, § 4; L. 1977, ch. 46, § 2; 1983, ch. 35, § 1; 1983, ch. 45, § 4; 1985, ch. 102, § 1.

**Amendment Notes.** — This section was amended twice by the 1983 Session, once by Chapter 35 and once by Chapter 45. Neither act referred to the other. The section is printed incorporating the changes made by both amendments.

The 1983 amendment by Chapter 35 inserted the second sentence in Subsection (1); and made minor changes in phraseology.

The 1983 amendment by Chapter 45 in-

serted "or constructed" and "lease, contract" in the second sentence of Subsection (1); inserted "that provides the same service proposed to be provided by the service district" in the first sentence of Subsection (2)(b); and made minor changes in phraseology.

The 1985 amendment in Subsection (1) added "or street lighting" at the end of the first sentence and substituted "the above" at the end of the subsection for "same."

**Cross-References.** — Fire protection districts authorized, § 17-9-1.

Loans for water systems, § 73-10-21.



### **11-23-5. Establishment of district by resolution based on motion or petition.**

(1) The governing authority of a county or of a municipality, upon its own motion, may by resolution declare that the public health, convenience, and necessity requires the establishment of a service district. The resolution shall describe the boundaries of and the services to be provided within the proposed service district and shall designate a name for the proposed service district.

(2) It shall be the duty of the governing authority of a county or municipality to adopt such a resolution, upon presentation to the governing authority of a petition proposing the establishment of a service district and setting forth the boundaries of and the services to be provided within the proposed service district, if the petition is approved by the owners of 10% or more of the assessed value of the taxable property included in the proposed service district (as shown on the assessment rolls last completed before the signing of the petition) or by 10% or more of the qualified electors of the proposed service district (as shown on the registration lists last made or revised). Approval of the petition shall be evidenced by one or more writings, attached to a copy of the petition, signed by the property owners or electors and so designated, together with their residence address and, in the case of property owners, the address of or other description sufficient to identify the property in the proposed service district owned by them. Signatures need not be notarized or witnessed, and signers need not be sworn; but all persons signing shall be deemed to have represented that they are a property owner or qualified elector of the proposed service district, as the case may be.

**History:** C. 1953, 11-23-5, enacted by L. 1975, ch. 116, § 5; L. 1983, ch. 45, § 5.

**Amendment Notes.** — The 1983 amendment deleted "(as shown on the assessment rolls last completed prior to the signing of the petition)" after "within the proposed service district" in the first sentence of Subsection (2);

and inserted the parenthetical phrase after "in the proposed service district" in the first sentence of Subsection (2).

**Cross-References.** — Extraterritorial service areas described in resolution, § 11-23-6.

Water and sewerage districts identified in resolution, § 11-23-24.

### **11-23-6. Resolution proposing district to include part of another subdivision or district — Action by governing body of other entity — Amendment on rejection — Jurisdiction on approval.**

(1) If the service district proposed to be established by a county includes any part of another county or counties or of an improvement district which is providing the service proposed to be provided by the service district, or if proposed by a municipality, includes any part of another municipality or municipalities or of an improvement district which is providing the service proposed to be provided by the service district, the resolution provided for in § 11-23-5 shall further state the name or names of the other county or counties, municipality or municipalities, or improvement district, and the areas within them proposed to be included within the service district. A certified copy of the resolution shall then be presented to the governing authority of the county or counties, municipality or municipalities, or improvement dis-

trict, as the case may be. It shall be the duty of such other governing authority or authorities to consider the resolution and to either approve or reject the same; but if no action has been taken within 30 days after the delivery of this certified copy to the other governing authority or authorities, the resolution shall be deemed rejected.

(2) If the resolution is rejected or is deemed rejected, the county or municipality which adopted the resolution shall then amend the resolution to delete the areas within the other county or counties, municipality or municipalities, or improvement district as shall have rejected the resolution or, in the case of an improvement district, to delete the service or services which are provided by the improvement district. If the resolution is approved by the other governing authority or authorities, or if the deletions have been made as provided in this Subsection (2), the governing authority of the county or municipality adopting the original resolution shall thereafter have complete jurisdiction of the entire service district and its creation and operation and shall proceed as provided in this chapter in all respects as though only a single county or municipality, as the case may be, were involved.

**History:** C. 1953, 11-23-6, enacted by L. 1975, ch. 116, § 6; L. 1977, ch. 46, § 3; 1983, ch. 45, § 6.

**Amendment Notes.** — The 1983 amendment substituted "of an improvement district which is providing the service proposed to be provided by the service district" two places in the first sentence of Subsection (1) for "improvement district"; inserted "or, in the case of

an improvement district, to delete the service or services which are provided by the improvement district" in the first sentence of Subsection (2); inserted "or if the deletions have been made as provided in this Subsection (2)" in the second sentence of Subsection (2); substituted "chapter" for "act" in the second sentence of Subsection (2); and made minor changes in phraseology and style.

### **11-23-7. Notice of intention to establish district — Contents — Public hearing.**

Before a service district may be established, the county clerk, city recorder, or town clerk, as the case may be, shall give notice of the intention of the county or municipality to establish the service district. The notice of intention shall describe the boundaries of the service district, shall generally describe the type or types of services proposed to be provided within the service district, shall state that taxes may be annually levied upon all taxable property within the service district and that fees and charges may be imposed to pay for all or a part of the services to be provided by the service district, and shall designate a time and place for a public hearing on the establishment of the service district. The notice of intention may contain such other information concerning the proposed service district as the governing authority deems necessary or appropriate.

**History:** C. 1953, 11-23-7, enacted by L. 1975, ch. 116, § 7.

**11-23-8. Publication or posting of notice of intention.**

The notice of intention to establish a service district shall be published at least once a week during three consecutive weeks, the first publication to be not less than 21 days nor more than 35 days before the hearing, in a newspaper having general circulation in the county or municipality proposing the establishment of the service district; except for service districts located entirely within cities of the third class or towns where there is no newspaper published in the city or town, the governing authority of that city or town may provide that the notice of intention may be given by posting in lieu of publication of the notice. In this event the notice of intention shall be posted by the city recorder, town clerk, or other officer designated by the governing authority in at least five public places in the city or town at least 21 days before the hearing. If the service district proposed to be established by a county includes any part of another county or counties or improvement district or if proposed by a municipality includes any part of another municipality or improvement district, the notice of intention shall also be published or posted in each such other county or counties, municipality or municipalities, or improvement district, as the case may be.

**History:** C. 1953, 11-23-8, enacted by L. 1975, ch. 116, § 8; L. 1977, ch. 46, § 4.

**11-23-9. Protests — Procedures — Effect.**

Protests against the establishment of the service district or the furnishing of specified types of services within the service district may be made orally at the hearing or in writing, at or at any time prior to the hearing, by any interested person. Any protest may be withdrawn by the protestant at any time before the governing authority establishes or abandons the service district. At the place and on the date and time specified for the hearing in the notice of intention, the governing authority of the county or municipality shall give full consideration to all protests which may have been filed and shall hear and consider all interested persons desiring to be heard. The hearing may be continued from time to time. If persons constituting and consisting of over 50% of the qualified voters of the territory proposed to be included within the service district or the owners of over 50% of the assessed value of the taxable property included within the proposed service district file written protests within 15 days after the conclusion of the hearing, against the establishment of the special service district or against the specified type or types of extended service within the service district, the governing authority shall in the former instance abandon the proposed establishment of the special service district, and in the latter instance eliminate those types of services objected to from the resolution finally establishing the service district.

**History:** C. 1953, 11-23-9, enacted by L. 1975, ch. 116, § 9; L. 1983, ch. 45, § 7.

**Amendment Notes.** — The 1983 amendment inserted "or the owners of over 50% of the

assessed value of the taxable property included within the proposed service district" in the last sentence; and made a minor change in style.

### 11-23-10. Petition or protest — Signing — Corporation or property held by more than one.

The petition provided for in § 11-23-5 made by the owners of the taxable property in the proposed service district, and any protest permitted by § 11-23-9 made by the owners of the taxable property in the proposed service district, signed on behalf of a corporation owning property in the proposed service district shall be sufficient if it is signed by the president, vice-president, or any duly authorized agent of the corporation. Where title to any property is held in the name of more than one person, all of the persons holding title to it must join in the signing of the petition or protest.

**History:** C. 1953, 11-23-10, enacted by L. 1975, ch. 116, § 10; L. 1983, ch. 45, § 8.

**Amendment Notes.** — The 1983 amend-

ment inserted "made by the owners of the taxable property in the proposed service district" in two places in the first sentence.

### 11-23-11. Adoption of resolution — Judicial review.

(1) After conclusion of the hearing and after the time for filing protests, as provided in § 11-23-9 has expired, the governing authority shall adopt a resolution either establishing the service district or determining that the proposal to establish it should be abandoned. A resolution establishing a service district may contain any changes from the initial resolution or notice of intention the governing authority determines to be appropriate, including reduction of the boundaries of the service district and elimination of one or more of the types of services proposed; but the boundaries of the service district may not be increased nor additional types of services added without the giving of a new notice of intention and the holding of a new hearing. The abandonment of a service district shall be without prejudice to the inclusion of all or a part of the area of the abandoned district in a new service district established in the manner provided in this chapter.

(2) Any person who files a written protest within the period specified in § 11-23-9 and who is a qualified voter residing within the district or whose property has been included within the boundaries of the service district by the governing authority notwithstanding such protest, may within 30 days after the adoption of the resolution establishing the service district, apply to the district court of the judicial district in which the county or municipality is located for a writ of review of the actions of the governing authority in establishing the service district, but only upon the ground that the protestor's property will not be benefited by one or more of the types of services authorized to be furnished by the service district or upon the ground that the proceedings taken in establishing the special service district have not been in compliance with law. A failure to timely apply for a writ of review forecloses the right of all owners of property or qualified voters within the service district to further object.

**History:** C. 1953, 11-23-11, enacted by L. 1975, ch. 116, § 11; L. 1983, ch. 45, § 9.

**Amendment Notes.** — The 1983 amendment inserted the subsection designations; in-

serted "and after the time for filing protests, as provided in section 11-23-9 has expired" in the first sentence of Subsection (1); inserted "the proposal to establish" in the first sentence of



Subsection (1); substituted "chapter" for "act" in the last sentence of Subsection (1), substituted "Any person \* \* \* within the district or" in the first sentence of Subsection (2) for "Any person who shall at or any time prior to the hearing specified in section 11-23-9 file a written protest against the establishment of the service district or the furnishing of specified

types of services within the service district and"; rewrote the second sentence of Subsection (2) which read: "A failure to apply for such writ of review within the time above prescribed shall foreclose all owners of property within said service district so established from the right to further object thereto"; and made minor changes in phraseology and style.

### **11-23-12. Service district as separate body politic — Supervision and control — Governing authority — Delegation to administrative control board, officers or employees.**

After the adoption of the resolution establishing a service district, the service district so established shall be a separate body politic and corporate and a quasi-municipal public corporation distinct from each county or municipality in which the service district is located. Notwithstanding, the governing authority of the county or municipality which established the service district, as such governing authority exists from time to time, shall control and have supervisory authority over all activities of the service district but may delegate to the administrative control board established under § 11-23-24 or to designated officers or employees (who may, but need not be, officers or employees of the county or municipality which established the service district) the performance of any such activities and the exercise of any rights, powers and authority of the service district.

History: C. 1953, 11-23-12, enacted by L. 1975, ch. 116, § 12; L. 1977, ch. 46, § 5.

### **11-23-13. Service district — Rights, powers and authority.**

(1) In addition to all other rights, powers, and authority granted by law or by other provisions of this chapter, a service district has the following rights, powers and authority:

- (a) the right to sue and be sued;
- (b) the power to exercise all powers of eminent domain possessed by the county or municipality which established the service district;
- (c) the power to enter into contracts considered desirable by the governing authority of the service district to carry out the functions of the service district, including, without limitation, the power to enter into contracts with the government of the United States or any of its agencies, the state of Utah, counties, municipalities, school districts, and other public corporations, districts, or political subdivisions including institutions of higher education. These contracts may include, without limitation, provisions concerning the use, operation, and maintenance of any facilities of the service district and the collection of fees or charges with respect to commodities, services, or facilities provided by the service district;
- (d) the power to acquire or construct facilities, to purchase, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use, finance, and otherwise deal in and with real and

personal property, or any interest in them, wherever situated, either within or outside of the service district, including water and water rights, and including the power to acquire other than by condemnation property or interests in property owned or held by institutions of higher education;

(e) the power to sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of or contract with respect to the use, operation, and maintenance of, all or any part of its property and assets, including water and water rights;

(f) the power to accept governmental grants, loans, or funds and to comply with the conditions of them;

(g) the right to utilize any officers, employees, property, equipment, offices, or facilities of the county or municipality which established the service district, and for which the governing authority of the service district shall reimburse the county or municipality from service district funds, a reasonable amount for the services so rendered or for the property, equipment, offices, or facilities so used;

(h) the right to employ officers, employees, and agents for the service district, including engineers, accountants, attorneys, and financial consultants, and to fix their compensation;

(i) the right to adopt an official seal for the service district.

(2) The governing authority of a county shall by ordinance establish those classes of contracts of a service district which shall be subject to the requirements of § 17-15-3, or of any law hereafter enacted for the same purpose.

(3) The governing authority of a municipality shall by ordinance establish those classes of contracts of a service district which shall be subject to the requirements of § 10-7-20, or of any law hereafter enacted for the same purpose.

**History:** C. 1953, 11-23-13, enacted by L. 1975, ch. 116, § 13; L. 1983, ch. 45, § 10.

**Amendment Notes.** — The 1983 amendment substituted "chapter" for "act" in subsection (1); added "including institutions of higher education" to the first sentence of Subsection (1)(c); added the second sentence to Subsection (1)(c); inserted "to acquire or construct facilities" in Subsection (1)(d); inserted "finance" in Subsection (1)(d); added "and including the

power to acquire other than by condemnation property or interests in property owned or held by institutions of higher education" to Subsection (1)(d); inserted "or contract with respect to the use, operation, and maintenance of" in Subsection (1)(e); and made minor changes in phraseology and style.

**Cross-References.** — Delegation of powers to Administrative Control Board, § 11-23-24.

## 11-23-14. Budget and funds of service district — County or municipal laws govern.

(1) With respect to the budgeting, accounting for, and disbursing of funds of the service district, including taxes levied for the service district, fees and charges imposed by the service district, and other revenues of the service district, the service district shall be governed by the general laws relating to such matters applicable to the county or municipality which established the service district; but at all times these funds and any expenditures from these funds shall be separately accounted for and utilized only for service district purposes. Accordingly:

(a) A budget for the service district shall be adopted and administered in the same manner as the budget for general purposes of the county or



municipality which established the service district, either as a part of the general budget or separate from it.

(b) Funds of the service district shall be collected, held, and administered in the same manner as other funds of the county or municipality, or as required by any resolution, ordinance, mortgage, indenture, or other proceeding or instrument under which bonds or notes of the service district are issued or secured but shall be segregated and separately maintained as service district funds, except where in the judgment of the governing authority advantages inure to the service district from co-investment of service district funds and other funds also subject to control by the governing authority, then the governing authority may effect this co-investment, but in no event shall the funds of any service district or the income from their investment be used for other purposes than those of that service district.

(c) Expenditures shall be made in the same manner as other expenditures of the county or municipality are made or as required by any resolution, ordinance, mortgage, indenture, or other proceeding or instrument under which bonds or notes of the service district are issued or secured.

**History:** C. 1953, 11-23-14, enacted by L. 1975, ch. 116, § 14; L. 1977, ch. 46, § 6; 1983, ch. 45, § 11.

**Amendment Notes.** — The 1983 amendment inserted "or as required by any resolution, ordinance, mortgage, indenture, or other

proceeding or instrument under which bonds or notes of the service district are issued or secured" in Subsections (1)(b) and (1)(c); and made minor changes in phraseology and punctuation.

## **11-23-15. Borrowing power — Issuance of bonds and notes — Use of proceeds.**

(1) A service district may borrow money and incur indebtedness, issuing its bonds or notes therefor, including, without limitation:

(a) bonds payable in whole or in part from taxes levied on the taxable property in the service district;

(b) bonds payable from revenues derived from the operation of revenue-producing facilities of the service district;

(c) bonds payable from both such revenues and taxes;

(d) guaranteed bonds, payable in whole or in part from taxes levied on the taxable property in the service district;

(e) tax anticipation notes;

(f) bond anticipation notes; and

(g) refunding bonds.

(2) Tax anticipation notes are notes issued in anticipation of the collection of taxes and other revenues of a service district which are due and payable in not more than one year from their date of issue and, together with all other such notes then outstanding, do not exceed the estimated amount of taxes and other revenues to be collected from the date of issue until maturity.

(3) Bond anticipation notes are notes issued in anticipation of the receipt of the proceeds of bonds of the service district.

(4) All these bonds and notes shall be issued and sold in the manner, at either public or private sale, shall be in the form, and signed by the person or persons (who may, but need not, be officers of the county or municipality

which established the service district) and generally shall be issued in the manner and with the details as is provided for in proceedings of the governing authority of the service district authorizing the issuance of the bonds or notes; but all these bonds and notes and the interest on them shall be exempt from all taxation in this state, except for the corporate franchise tax, and all these bonds and notes may contain those terms and provisions as are permitted by and shall be issued in compliance with the Utah Municipal Bond Act, Chapter 14, Title 11.

(5) The proceeds of bonds or notes issued under the authority of this chapter shall be used to pay the costs of acquisition or construction of service district facilities or the providing of services including, without limitation:

(a) all costs of planning, designing, acquiring, and constructing a facility, including architectural, planning, engineering, legal, and fiscal advisor's costs;

(b) all costs incident to the authorization and issuance of the bonds or notes, including accountants' fees, attorneys' fees, financial advisors' fees, underwriting fees, (including underwriting fees or bond discount) and other professional services and printing costs;

(c) interest estimated to accrue on bonds or notes for a reasonable time before, during, and for a reasonable time after the completion of the acquisition or construction of the facilities or services; and

(d) all amounts deemed necessary to establish one or more bond reserves and maintenance, repair, replacement, contingency funds and accounts, and all amounts necessary to provide working capital for the facility.

**History:** C. 1953, 11-23-15, enacted by L. 1975, ch. 116, § 15; L. 1983, ch. 45, § 12; 1984, ch. 61, § 4.

**Amendment Notes.** — The 1983 amendment inserted "and generally shall be issued in the manner and with the details" in Subsection (4); substituted "these bonds and notes and the interest on them shall be exempt from taxation in this state, including taxation under the individual income tax laws and the corporate franchise tax laws of this state, and all these bonds and notes may contain those terms and provisions as are permitted by and" in Subsection

(4) for "such bonds and bond anticipation notes"; added Subsection (5); and made minor changes in phraseology.

The 1984 amendment substituted "all taxation in this state, except for the corporate franchise tax" is Subsection (4) for "taxation in this state, including taxation under the individual income tax laws and the corporate franchise tax laws of this state"; and made minor changes in phraseology and style.

**Cross-References.** — Delegation of powers to Administrative Control Board, § 11-23-24.

## 11-23-16. Bonds payable from taxes — Limitations.

Bonds of a service district which by their terms are payable in whole or in part from taxes shall not be issued in an amount which, when added to the then outstanding bonds of the service district similarly payable from taxes, shall exceed 12% of 100% of the reasonable fair cash value of the taxable property in the service district. For purposes of this section, the reasonable fair cash value of all tax equivalent property, as defined in § 59-28-2, shall be included as a part of the reasonable fair cash value of taxable property in the service district. The fair cash value shall be computed from the assessed values shown on the assessment rolls of each county in which the service district is located as last equalized prior to the issuance of the bonds and by

converting these assessed values to fair cash value, using for that purpose the appropriate multiple based on the statutory assessment ratio provided by law. Tax anticipation notes, bond anticipation notes and bonds of the service district payable solely from revenues derived from the operation of revenue-producing facilities of the district shall not be included as outstanding bonds for purposes of such limitation.

**History:** C. 1953, 11-23-16, enacted by L. 1975, ch. 116, § 16; L. 1981, ch. 243, § 3.

**Amendment Notes.** — The 1981 amendment inserted the second sentence.

### **11-23-17. Guaranteed bonds.**

(1) Guaranteed bonds may be issued in addition to and in excess of the 12% limitation provided for in § 11-23-16, but only upon the conditions provided for in Subsections (2) and (3).

(2) There shall have been filed with and approved by the department of community affairs the following:

(a) a report to the service district proposing to issue the guaranteed bonds from qualified registered architects or engineers or other persons qualified by experience as may be appropriate to the project involved, setting forth:

(i) the estimated or, if available, the actual cost of acquisition, construction, and equipment of the project financed or to be financed including a description of the project;

(ii) the principal amount of guaranteed bonds to be issued, the date and amount of each stated maturity of them and, set forth separately, the same information with respect to any guaranteed bonds of the service district as may be outstanding, including as to such outstanding guaranteed bonds the rates of interest they bear;

(iii) the amount and the estimated amount of the annual debt service for each year during the life of all guaranteed bonds issued and then intended to be issued to finance all or any part of the project; and

(iv) the date or estimated date of the completion of the project.

(b) a copy, certified by the recording officer of the governing authority of the service district of the proposed guarantee by one or more taxpayers owning property within the boundaries of the service district of debt service on the guaranteed bonds, together with an opinion of counsel to the effect that the guarantee, when executed, will be the legal and binding obligation of the taxpayer or taxpayers in accordance with its tenor and terms.

(c) evidence satisfactory to the department of community affairs from the taxpayer or taxpayers guaranteeing the bonds as to the financial ability of the taxpayer or taxpayers to perform under the guarantee.

(3) If the department of community affairs shall approve the issuance of the guaranteed bonds, it shall indicate its approval upon a duplicate original of the proceedings and return the same to the service district. Upon the filing of this approval in the office of the county recorder in which the governing authority is located, the principal amount of guaranteed bonds may be issued, but only upon compliance with the election requirements of § 11-23-21.

(4) If the principal amount of any guaranteed bonds which having once been issued, remain outstanding but by their terms no longer enjoy the benefit of the guarantee, shall be included in the determination of bonded indebtedness for the purpose of the 12% limitation contained in § 11-23-16. The service district shall on July 1st of each year file with the department of community affairs a report certifying:

(a) the total amount of bonds and other debt then outstanding and subject to the 12% limitation of § 11-23-16;

(b) the total amount of guaranteed bonds then outstanding and not subject to such 12% limitation; and

(c) the total amount of bonds which, during the preceding 12 months, were deemed by their terms to no longer enjoy the benefit of the guarantee.

**History:** C. 1953, 11-23-17, enacted by L. 1975, ch. 116, § 17.

### **11-23-18. Service district indebtedness not enforceable against state, county, municipality, school district, other public corporations.**

Bonds, notes, or other obligations or indebtedness of a service district, whether or not payable from taxes, shall in no event be considered an obligation or indebtedness of and shall not be enforceable against the state of Utah or any county, municipality, school district, or other public corporation, district, or political subdivision in which the service district or any part of it is located and shall not be taken into account in computing any limitation on indebtedness of the state of Utah or of any such county, municipality, school district, or other public corporation, district, or political subdivision.

**History:** C. 1953, 11-23-18, enacted by L. 1975, ch. 116, § 18.

**Cross-References.** — Delegation of powers to Administrative Control Board, § 11-23-24.

### **11-23-19. Fees or charges for services or facilities.**

(1) The governing authority of a service district may by resolution or ordinance impose and collect fees or charges for any commodities, services, or facilities provided by the service district and may pledge all or any part of the revenues so derived to the payment of any bonds issued by the service district, whether the bonds are issued as revenue bonds, guaranteed bonds, or as general obligations of the district. Where revenue bonds are issued payable solely from the fees and charges so imposed, the fees and charges shall always be sufficient to carry out the provisions of the resolution or ordinance authorizing the issuance of the revenue bonds, including provisions for payment of the principal of and interest on the bonds, the operation and maintenance of the facilities, and the establishment and maintenance of appropriate reserve fund or funds while these bonds are outstanding.

(2) The governing authority shall take such action and adopt such regulations as are necessary to assure the proper collection and enforcement of all fees and charges imposed, including assessment and collection of penalties



and interest if the fees and charges are not paid when due. Where more than one commodity, service, or facility is furnished by the district, the fees and charges for all commodities, services and facilities may be billed to the user in a single bill. All or any of the commodities, services, and facilities furnished to a user by the service district may be suspended if any fees or charges due the service district are not paid in full when due.

**History:** C. 1953, 11-23-19, enacted by L.  
1975, ch. 116, § 19.

**Cross-References.** — Delegation of powers  
to Administrative Control Board, § 11-23-24.

### **11-23-20. Delinquent fees and charges.**

The governing authority of a service district may, by ordinance or resolution, provide that fees and charges for water, sewer, or garbage services supplied by the service district shall, if not paid when due, be certified to the treasurer and assessor of the county in which the delinquent premises are located. These delinquent fees and charges, together with penalties and applicable interest shall, immediately upon this certification, become a lien on the delinquent premises on a parity with and collected at the same time and in the same manner as general county taxes that are a lien on the premises.

**History:** C. 1953, 11-23-20, enacted by L.  
1975, ch. 116, § 20.

**Cross-References.** — Delegation of powers  
to Administrative Control Board, § 11-23-24.

### **11-23-21. Tax levy and bonds — Approval by majority of electors voting in election — Procedure for election.**

(1) The governing authority of a county or municipality which has established a service district may levy a tax on all taxable property within the service district in addition to all other taxes on such property levied or imposed by the county or municipality or by any other public corporation, district, or political subdivision in which the service district is located, and may also issue bonds payable in whole or in part from these taxes. No tax may be levied and no bonds or guaranteed bonds shall be issued, however, unless authorized, except as otherwise provided in § 11-23-23, by a majority of the qualified electors of the service district voting at an election for that purpose held as provided in this section.

(2) The proposition to levy the tax or to issue the bonds shall be submitted to the qualified electors of the service district at an election called and held and for which notice is given in the same manner as is provided in the Utah Municipal Bond Act for the holding of bond elections. The proposition shall state the purpose or purposes for which the taxes are to be levied or the bonds are to be issued. In addition, a proposition for the issuance of bonds shall state the maximum amount of bonds to be issued, the maximum number of years from their respective dates for which the bonds may run, and, if the bonds are to be payable in whole or in part from taxes, that fact and that taxes may be levied on all taxable property in the service district to pay the principal of and interest on the bonds. The purpose or purposes may be stated in general terms and need not specify the particular projects or services for which the taxes are

to be levied or the bonds are to be issued nor the specific amount of the proceeds of the taxes or of the bonds to be expended for each project or service. If bonds are to be payable in part from tax proceeds and in part from the operating revenues of the service district or from any combination of them, the proposition shall so indicate but need not specify how the bonds are to be divided as to source of payment. If the bonds are to be issued as guaranteed bonds, the proposition shall also clearly state that fact together with the name or names of the guarantors. A proposition for the levy of taxes and for the issuance of bonds may be combined as a single proposition.

**History:** C. 1953, 11-23-21, enacted by L. 1975, ch. 116, 21; L. 1983, ch. 45, § 13; 1984, ch. 7, § 1.

**Amendment Notes.** — The 1983 amendment inserted "except as otherwise provided in § 11-23-23" in the last sentence of Subsection (1); and deleted "voting at an election for that

purpose held as provided in this section" at the end of the last sentence of Subsection (1).

The 1984 amendment added "voting at an election for that purpose held as provided in this section" to the last sentence of Subsection (1); and made a minor change in style.

### **11-23-21.5. Intent of legislature regarding bond elections — Majority vote — Validation of elections.**

It is the intent of the legislature that bonds be approved only by a majority of the electors voting in the election as provided in other sections of the chapter rather than a majority of all electors. It is also the intent of the legislature that any bond elections held by a special district since May 10, 1983, be validated and ratified if the bonds were authorized by a majority of the electors voting in the election.

**History:** C. 1953, 11-23-21.5, enacted by L. 1984, ch. 7, § 2.

**Effective Dates.** — Section 3 of Laws 1984, ch. 7 provided: "This act shall take effect upon approval by the governor, or the day following

the constitutional time limit of Article VII, Sec. 8 without the governor's signature, or in the case of veto, the date of veto override." Approved February 16, 1984.

### **11-23-22. Issuance of bonds and tax levy approved — Proposition.**

(1) When approved by a majority of the qualified electors of the service district voting at an election for that purpose:

(a) a proposition for the issuance of bonds shall be full authorization for the issuance of bonds for the purposes, up to the maximum amount and for the period provided for in the proposition, and also, if the bonds are to be payable in whole or in part from taxes, shall be full authorization for the levy of these taxes, without limit as to rate or amount, as may be necessary to pay the principal of and interest on such bonds;

(b) a proposition for the levy of taxes shall be full authorization for the levy of taxes for the purpose or purposes as are stated in the proposition, the levy to be at such rate or rates, in such amount or amounts and for such period of time as the governing authority of the county or municipality shall determine to be appropriate, subject, however, to any limitations on these rates, amounts and period as may be expressly stated in the proposition; and



(c) a combined proposition for the levy of taxes and for the issuance of bonds shall grant the same authority as if submitted in separate propositions.

**History:** C. 1953, 11-23-22, enacted by L. 1975, ch. 116, § 22.

### **11-23-23. Exceptions to election requirements.**

The election provided for in § 11-23-21 shall not be required for the issuance by the service district of:

- (1) bonds payable solely from revenues derived from the operation of revenue-producing facilities of the district or which are otherwise not payable from taxes levied on the taxable property in the service district;
- (2) tax anticipation notes;
- (3) bond anticipation notes; or
- (4) refunding bonds.

**History:** C. 1953, 11-23-23, enacted by L. 1975, ch. 116, § 23; L. 1983, ch. 45, § 14.

**Amendment Notes.** — The 1983 amendment substituted the reference to § 11-23-21

for a reference to § 11-23-20; added "levied on the taxable property in the service district" to Subsection (1); and made minor changes in style.

### **11-23-24. Administrative control board — Appointment or election of members — Qualifications — Terms — Powers — Compensation — Filing requirements.**

(1) (a) The governing authority of a county or municipality which has established a service district may, by resolution adopted at the time of the establishment or at any time afterwards, create an administrative control board for the service district.

(b) The administrative control board shall consist of at least three and no more than seven persons, each of whom is a qualified elector of the service district. However, where a county establishes a service district including all or part of one or more municipalities or one or more improvement districts organized under Chapter 6, Title 17, to provide the same service as the service district, then the municipality or improvement district is entitled to appoint one member to represent it on any administrative control board created (who may but need not be a qualified elector of the service district).

(c) If a service district is providing commodities, services, or facilities to an institution of higher education, that institution is entitled to appoint one member (or additional members necessary to assure that it has at least one-third of the total of the board members) to represent it on the board (who may, but need not be, a qualified elector of the service district).

(d) The number of members of the administrative control board shall be increased by the number of improvement district, municipal, or institution of higher education members so appointed.

(2) Members of the administrative control board (other than improvement district, municipal, or institution of higher education members) shall be either

appointed by the governing authority of the county or municipality which established the service district or elected by the qualified electors of the service district as provided by resolution of the governing authority. An appointive board may be made elective, and an elective board may be made appointive, all as determined by resolution of the governing authority. However, the term of any member who was elected may not be reduced by reason of this change.

(3) In the case of a service district established to provide either water or sewerage service or both, the governing authority may by resolution adopted at or after the time of establishment, or in the case of a service district established before March 29, 1983, or within 90 days after that date, create an administrative control board in accordance with the provisions of Subsection (1). A resolution for a service district for water or sewerage purposes adopted after March 29, 1983, under § 11-23-5 shall identify all existing water and sewerage districts within the area of the proposed service district and state the terms upon which the administrative control board will be initially appointed or, if to be elected, thereafter elected.

(4) If an administrative control board is elective, its members (other than improvement district, municipal, or institution of higher education members) shall be determined as follows;

(a) The election shall be held as a part of the general election at which officers are elected for the county or municipality which established the service district.

(b) Candidates shall qualify by filing with the appropriate clerk or recorder, in accordance with the time requirements of Subsection 20-4-9 (1), a declaration of candidacy which includes a sworn statement that the candidate is a qualified elector of the service district.

(c) There shall be no primary election.

(d) Each voter shall be entitled to vote for as many candidates as there are offices to be filled, and those candidates receiving the highest number of votes for the offices to be filled shall be declared elected.

(e) Only qualified electors of the service district, duly registered for the election as shown in the registration books last made or revised, shall be entitled to vote.

(f) The ballots shall be in the form prescribed by the governing body of the county or municipality and may be a separate ballot from the ballot otherwise used at the general election.

(g) The election shall otherwise be held in accordance with the general laws governing the election of officers of the county or municipality which established the service district.

(5) Except as otherwise provided in this subsection, the terms of office of members of the administrative control board shall be four years each, commencing on the same day that the terms of office commence for officers of the county or municipality which established the service district. However, members initially appointed to an administrative control board which has only appointive members may be appointed for an additional term commencing on the date of appointment and continuing until the regular commencement of the above-specified term. Of the members initially elected or appointed, as nearly as may be, one-half of the members shall serve for terms of office of two years each and the remaining one-half for terms of office of four years each from the regular commencement of their term of office, the determination of

whom shall be in each category to be by lot. Whether or not the board is elective or appointive, vacancies other than by expiration of term, shall be filled for the unexpired term by appointment of the entity which has under this chapter the authority to make the initial appointment.

(6) The governing authority of the county or municipality which established the service district may delegate to the administrative control board such powers of the governing authority with respect to the service district as may be specified by resolution of the governing authority, including, without limitation, the power to act as the governing authority of the service district and to exercise all or any of the powers provided for in §§ 11-23-13, 11-23-15, 11-23-18, 11-23-19, and 11-23-20. Notwithstanding anything to the contrary in this chapter, the governing authority of the county or municipality may not delegate the power to levy a tax on the taxable property of the service district, to issue bonds payable from taxes, or to call or hold an election for the authorization of the tax or bonds. No election shall be held, tax levied, or bonds issued unless the governing authority of the county or municipality has approved the calling and holding of the election, the levy of the tax, or the issuance of the bonds. Any delegation to an administrative control board may be revoked in whole or in part by resolution of the governing authority.

(7) Administrative control board members shall be paid at a per diem rate to be set by resolution of the governing authority, and the administrative control board shall be assigned or authorized to employ staff commensurate with the duties and functions assigned to it by the governing authority.

**History:** C. 1953, 11-23-24, enacted by L. 1975, ch. 116, § 24; L. 1977, ch. 46, § 7; 1983, ch. 45, § 15; 1986, ch. 132, § 1.

**Amendment Notes.** — The 1983 amendment inserted the third sentence in Subsection (1); inserted references to institutions of higher education in Subsections (1), (2), and (4); inserted "or after" in Subsection (3); substituted "chapter" for "act" in Subsections (3), (5), and (6); inserted "of the county or municipality" in the second sentence of Subsection (6); and made minor changes in phraseology, punctuation and style.

The 1986 amendment designated the four sentences of Subsection (1) as Subsections (1)(a) through (1)(d); made stylistic changes in Subsections (1), (2), (5) and (6); rewrote Subsection (3) so as to establish March 29, 1983 as the relevant date; and substituted "with the appropriate clerk or recorder, in accordance with the time requirements of Subsection 20-4-9(1)" for "not later than 45 days before the election" in Subsection (4)(b).

## **11-23-25. Adding additional services — Annexing additional area.**

After the establishment of a service district, additional services from that specified in the resolution establishing the district may be added and additional area from that specified in the resolution may be annexed to the district by using the procedure provided for in this chapter for the establishment of the district with appropriate changes in the wording of the required instruments. No additional area, however, shall be annexed and the governing authority shall abandon the annexation proceedings if the owners of more than 50% of the assessed value of the taxable property within the area to be annexed or if more than 50% of the assessed value of the taxable property within the established district (as determined from the owners, properties, and assessed values shown on the assessment rolls last completed prior to the adoption of the resolution proposing the annexation) or more than 50% of the

qualified electors of the area to be annexed or more than 50% of the qualified electors of the established district (as determined from the registration lists last made or revised) file written protests to the annexation at or prior to the hearing regarding it.

**History:** C. 1953, 11-23-25, enacted by L. 1975, ch. 116, § 25; L. 1983, ch. 45, § 16.

**Amendment Notes.** — The 1983 amendment substituted "chapter" for "act" in the first sentence; inserted "or if more than 50% of the assessed value of the taxable property within

the established district" in the second sentence; inserted "or more than 50% of the qualified electors of the established district" in the second sentence; and made a minor change in phraseology.

## 11-23-26. Discontinuance of service.

The governing authority of a service district may, by resolution and without dissolving the district, discontinue a specified type of service supplied by the district unless at the time of the discontinuance the district has outstanding bonds payable in whole or in part from the fees and charges imposed for the services to be discontinued or is under contractual obligation to provide these services. If these bonds are outstanding, these services may be discontinued only if the bonds are paid, adequate provision is made for their payment, or, if the proceedings authorizing the issuance of the bonds so provided, the holders of the bonds agree to the discontinuance in accordance with procedures prescribed in the proceedings. If this contractual obligation exists, the services may be discontinued with the consent of all parties to the contract.

**History:** C. 1953, 11-23-26, enacted by L. 1975, ch. 116, § 26; L. 1983, ch. 45, § 17.

**Amendment Notes.** — The 1983 amendment added "or is under contractual obligation

to provide these services" to the first sentence; substituted "If these bonds are outstanding" in the second sentence for "In this event"; and added the third sentence.

## 11-23-27. Dissolution of district — Withdrawal of area from district.

(1) A service district may not be dissolved nor areas withdrawn from the district if any bonds, notes, or other obligations of the district are outstanding and unpaid or if any contractual obligation to provide the services exists.

(2) Subject to the limitation in Subsection (1), the governing authority of the service district may by resolution:

(a) dissolve the district upon a determination that the district is no longer needed for the purposes for which it was formed; or

(b) withdraw specifically described areas from the service district upon a determination that these areas should not or cannot be supplied with the services of the service district.

**History:** C. 1953, 11-23-27, enacted by L. 1975, ch. 116, § 27; L. 1983, ch. 45, § 18.

**Amendment Notes.** — The 1983 amend-

ment added "or if any contractual obligation to provide the services exists" to Subsection (1); and made a minor change in phraseology.



## 11-23-28. Other districts not affected — Election by other districts to become service districts — Procedure.

(1) The adoption of this act shall not affect the existence or operation of any improvement district operating under authority of Chapter 6 of Title 17, metropolitan water district, water conservancy district, county service area, drainage district, fire protection district, or other district in existence at the time this act takes effect; and, except as otherwise provided in §§ 19-1-1.5 and 17-9-1, such districts may continue to be established pursuant to existing laws authorizing the same. Any such district existing at the time this act takes effect or established afterwards which provides services of the type permitted by this act for service districts may elect to become a service district and be governed by the provisions of this act upon:

(a) adoption of a resolution or ordinance by the governing authority of the district so electing; and

(b) establishment of a new service district to supply the same services as the former district to the same area as the former district after compliance with the procedures for the establishment of service districts provided for in this act.

(2) Any outstanding bonds, notes or other obligations of any former district described in Subsection (1) shall become the bonds, notes, and obligations of the new service district with like effect as if issued by the service district; and any election authorizing the issuance of bonds of the former district shall have like effect as a bond election held under this act. Taxes in the amount and at the rate levied by the former district in the tax year preceding the change to the service district may continue to be levied by the service district without authorization at an election in the service district. No increase in the rate of these taxes shall be made unless an election authorizing the increase is held as provided for in this act; except that if any outstanding bonds are payable from taxes, the service district may levy such taxes as are necessary to pay the principal of and interest on these bonds without limit as to rate or amount and without an election.

**History:** C. 1953, 11-23-28, enacted by L. 1975, ch. 116, § 28.

**Compiler's Notes.** — The term "the time this act takes effect," referred to in Subsection (1), means the effective date of L. 1975, ch. 116, i.e., July 1, 1975.

"This act," referred to throughout the section, means Laws 1975, Chapter 116, which appears as §§ 11-23-1 to 11-23-21, 11-23-22 to 11-23-29, 19-1-1.5, 17-9-1, 11-14-1 and 11-14-27.

## 11-23-29. Act controlling in conflict of laws.

To the extent that any one or more provisions of this act shall be in conflict with any other law or laws, the provisions of this act shall be controlling.

**History:** C. 1953, 11-23-29, enacted by L. 1975, ch. 116, § 33.

**Meaning of "this act".** — See note under same catchline following § 11-23-28.

## 11-23-30. Validation of creation and prior actions of districts.

All service districts created before the effective date of this act, and all bonds and notes issued by such districts and all proceedings had in the authorization and issuance of such bonds and notes before the effective date of this act and the security for them are hereby validated, ratified, and confirmed; and all these service districts are declared to be validly existing and all these bonds, notes, agreements, and security constitute legally binding obligations of the service districts in accordance with their terms.

**History:** C. 1953, 11-23-30, enacted by L. 1983, ch. 45, § 19.

### Separability Clause.

Section 20 of Laws 1983, ch. 45 provided: "If any provision of this act, or the application of

any provision to any person or circumstance is held invalid, the remainder of this act shall not be affected thereby."

**Effective Dates.** — Section 21 of Laws 1983, ch. 45 provided: "This act shall take effect upon approval." Approved March 29, 1983.

# CHAPTER 24

## PARKING AND BUSINESS IMPROVEMENT DISTRICT ACT

### Section

- 11-24-1. Short title.
- 11-24-2. Purpose of act.
- 11-24-3. Definitions.
- 11-24-4. Establishment of improvement district — Tax levy — Parking and business improvement fund.
- 11-24-5. Resolution declaring need for district — Petition proposing establishment of district.
- 11-24-6. Notice of intention to establish district — Contents.
- 11-24-7. Publication or posting of notice.
- 11-24-8. Protests — Hearing — Abandoning proposed establishment of district.

### Section

- 11-24-9. Signature of petition or protest on behalf of business.
- 11-24-10. Resolution establishing district or abandoning establishment — Contents — Judicial review.
- 11-24-11. Funds of district — Budget — Collection — Investment — Expenditures.
- 11-24-12. Control of district by governing authority — Administrative board of directors — Powers.
- 11-24-13. Disestablishment of districts — Hearing — Resolution.
- 11-24-14. Disestablishment of districts — Disposition of assets and liabilities.

### 11-24-1. Short title.

This act shall be known and may be cited as the "Utah Parking and Business Improvement District Act."

**History:** C. 1953, 11-24-1, enacted by L. 1979, ch. 41, § 1.

**Meaning of "this act".** — The term "this

act," referred to in this section, apparently refers to Laws 1979, ch. 41, which enacted this section and §§ 11-24-2 to 11-24-14.



## 11-24-2. Purpose of act.

The purpose of this act is to provide authority for the establishment of parking and business improvement districts within a county or municipality.

**History:** C. 1953, 11-24-2, enacted by L. 1979, ch. 41, § 1.

act," referred to in this section, apparently refers to Laws 1979, ch. 41, which enacted this section and §§ 11-24-1 and 11-24-3 to 11-24-14.

**Meaning of "this act".** — The term "this

## 11-24-3. Definitions.

As used in this chapter:

- (1) "Business" means all types of business including professions.
- (2) "County" means a county of this state and includes any county regardless of the form of government under which it operates.
- (3) "Governing authority" means the board or body, however designated, in which the general legislative powers of a county or municipality are vested and includes the board of commissioners of a county or a city, the city council of a city, and the board of trustees of a town.
- (4) "Municipality" means a city or town of this state.
- (5) "Parking and business improvement district" or "district" means an area created under this chapter.

**History:** C. 1953, 11-24-3, enacted by L. 1979, ch. 41, § 1; L. 1981, ch. 41, § 1.

**Amendment Notes.** — The 1981 amendment substituted "chapter" for "act" in the first sentence and in Subsection (5); deleted "of the

first or second class" after "or a city" in Subsection (3); deleted "of the third class" after "of a city" in Subsection (3); and made minor changes in phraseology and punctuation.

## 11-24-4. Establishment of improvement district — Tax levy — Parking and business improvement fund.

(1) A county or a municipality may establish a parking and business improvement district for the purpose of general promotion of business activities within the district which may include, but not be limited to, promotion of general business activities within the district, for the benefit of the businesses assessed within the district, which may include, but not be limited to, providing free off-street parking.

(2) A county or a municipality which has established a parking and business improvement district may levy a tax on businesses within said district which is in addition to all other taxes levied upon businesses, and shall not be limited by levy limitations imposed upon counties or municipalities by law. Such tax shall be levied and collected as the governing authority shall determine and shall constitute a special fund to be known as the parking and business improvement fund. All tax monies received from the tax authorized hereunder shall be deposited in the county or municipal treasury to the credit of the parking and business improvement fund and shall be used for no other purpose other than operation and expenses of the district.

**History:** C. 1953, 11-24-4, enacted by L. 1979, ch. 41, § 1; L. 1981, ch. 41, § 2.

**Amendment Notes.** — The 1981 amendment substituted the language beginning “gen-

eral promotion” and ending “free off-street parking” at the end of Subsection (1) for “providing, within the district, free off-street parking for the benefit of the district.”

### **11-24-5. Resolution declaring need for district — Petition proposing establishment of district.**

(1) The governing authority of a county or of a municipality, upon its own motion, may by resolution declare that the public health, convenience, and necessity requires the establishment of a parking and business improvement district. The resolution shall describe the boundaries of the proposed parking and business improvement district and shall designate a name for the proposed district.

(2) It shall be the duty of the governing authority of a county or municipality to adopt such a resolution, upon presentation to the governing authority of a petition proposing the establishment of a parking and business improvement district and setting forth the boundaries of the proposed district, if the petition is approved by 10% or more of the business owners located in the proposed district. Approval of the petition shall be evidenced by one or more writings, attached to a copy of the petition, signed by the business owners and so designated, together with their residence address and the address of or other description sufficient to identify the property in the proposed district where their business is located. Signatures need not be notarized or witnessed, and signers need not be sworn, but all persons signing shall be deemed to have represented that they are an owner of a business within the proposed district.

**History:** C. 1953, 11-24-5, enacted by L. 1979, ch. 41, § 1; L. 1981, ch. 41, § 3.

**Amendment Notes.** — The 1981 amendment inserted “It shall be the duty of” at the

beginning of the first sentence of Subsection (2); and substituted “to adopt” in the first sentence of Subsection (2) for “shall adopt.”

### **11-24-6. Notice of intention to establish district — Contents.**

Before a district may be established, the county clerk, city recorder, or town clerk as the case may be, shall give notice of the intention of the county or municipality to establish the district. The notice of intention shall describe the boundaries of the district, shall state that taxes may be annually levied upon all businesses within the district and shall designate a time and place for a public hearing on the establishment of the district. The notice of intention may contain such other information concerning the proposed district as the governing authority deems necessary or appropriate.

**History:** C. 1953, 11-24-6, enacted by L. 1979, ch. 41, § 1.

**11-24-7. Publication or posting of notice.**

The notice of intention to establish a district shall be published at least once a week during three consecutive weeks, the first publication to be not less than 21 days nor more than 35 days before the hearing, in a newspaper having general circulation in the county or municipality proposing the establishment of the district; except for districts located entirely within cities of the third class or towns where there is no newspaper published in the city or town, the governing authority of that city or town may provide that the notice of intention may be given by posting in lieu of publication of the notice. In this event the notice of intention shall be posted by the city recorder, town clerk, or other officer designated by the governing authority in at least five public places in the city or town at least 21 days before the hearing.

History: C. 1953, 11-24-7, enacted by L.  
1979, ch. 41, § 1.

**11-24-8. Protests — Hearing — Abandoning proposed establishment of district.**

Protests against the establishment of the district may be made orally at the hearing or in writing, at or at any time prior to the hearing, by any interested person. Any protest may be withdrawn by the protestant at any time before the governing authority establishes or abandons the district. At the place and on the date and time specified for the hearing in the notice of intention, the governing authority of the county or municipality shall give full consideration to all protests which may have been filed and shall hear and consider all interested persons desiring to be heard. The hearing may be continued from time to time. If persons constituting and consisting of over 50% of the business owners of the territory proposed to be included within the district file written protests within 15 days after the conclusion of the hearing against the establishment of the district, the governing authority shall abandon the proposed establishment of the district.

History: C. 1953, 11-24-8, enacted by L.  
1979, ch. 41, § 1.

**11-24-9. Signature of petition or protest on behalf of business.**

The petition provided for in Subsection 11-24-5(2) and any protest permitted by § 11-24-8 signed on behalf of a corporation owning a business in the proposed district shall be sufficient if it is signed by the president, vice president, or any duly authorized agent of the corporation. Where title to any business is held in the name of more than one person, all of the persons holding title to it must join in the signing of the petition or protest.

History: C. 1953, 11-24-9, enacted by L.  
1979, ch. 41, § 1.

### **11-24-10. Resolution establishing district or abandoning establishment — Contents — Judicial review.**

(1) After conclusion of the hearing, the governing authority shall adopt a resolution either establishing the district or determining that it should be abandoned. A resolution establishing a district may contain any changes from the initial resolution or notice of intention the governing authority determines to be appropriate, including reduction of the boundaries of the service district; but the boundaries of the service district may not be increased without the giving of a new notice of intention and the holding of a new hearing. The abandonment of a district shall be without prejudice to the inclusion of all or a part of the area of the abandoned district in a new district established in the manner provided in this act.

(2) Any person who shall, at or any time prior to the hearing specified in § 11-24-6, file a written protest against the establishment of the district and whose business has been included within the boundaries of the district by the governing authority, notwithstanding such protest, may within 30 days after the adoption of the resolution establishing such district, apply to the district court of the judicial district in which such county or municipality is located for a writ of review of the actions of the governing authority in so establishing such district, but only upon the ground that his business will not be benefitted by the district or upon the ground that the proceedings taken in establishing the district have not been in compliance with law. A failure to apply for such writ of review within the time above prescribed shall foreclose all owners of businesses within said district so established from the right to further object thereto.

History: C. 1953, 11-24-10, enacted by L.  
1979, ch. 41, § 1.

### **11-24-11. Funds of district — Budget — Collection — Investment — Expenditures.**

With respect to the budgeting, accounting for, and disbursing of funds of the district, including taxes levied for the district, the district shall be governed by the general laws relating to such matters applicable to the county or municipality which established the district; but at all times these funds and any expenditures from these funds shall be separately accounted for and utilized only for district purposes. Accordingly:

(1) a budget for the district shall be adopted and administered in the same manner as the budget for general purposes of the county or municipality which established the district, either as a part of the general budget or separate from it;

(2) funds of the district shall be collected, held, and administered in the same manner as other funds of the county or municipality but shall be segregated and separately maintained as district funds, except where in the judgment of the governing authority advantages inure to the district

from co-investment of district funds and other funds also subject to control by the governing authority, then the governing authority may effect this co-investment, but in no event shall the funds of any district or the income from their investment be used for other purposes than those of that district; and

(3) expenditures shall be made in the same manner that other expenditures of the county or municipality are made.

**History:** C. 1953, 11-24-11, enacted by L.  
1979, ch. 41, § 1.

### **11-24-12. Control of district by governing authority — Administrative board of directors — Powers.**

After the adoption of the resolution establishing a district, the district so established shall be under the control of the governing authority. However, the governing authority may appoint an administrative board consisting of any number of directors as the governing authority shall determine. Said director shall receive no pay for their services as directors, but may be reimbursed for reasonable and authorized out-of-pocket expenses they may incur as directors.

All actions taken by the board shall constitute recommendations to the governing authority and shall not constitute official action. The board shall have the power, subject to approval of the governing authority, to:

- (1) adopt and alter rules and regulations for the operation of the district;
- (2) determine broad matters of policy regarding the operation of the district; and
- (3) assist the governing authority in the operation of the district in any manner that the governing authority may direct.

**History:** C. 1953, 11-24-12, enacted by L.  
1979, ch. 41, § 1.

### **11-24-13. Disestablishment of districts — Hearing — Resolution.**

The governing authority may disestablish a district by resolution after a hearing before the governing authority. The governing authority shall, prior to the hearing, adopt a resolution of intention to disestablish the district at least 15 days prior to the hearing required by this section. The resolution shall state the time and place of said hearing.

**History:** C. 1953, 11-24-13, enacted by L.  
1979, ch. 41, § 1.



### 11-24-14. Disestablishment of districts — Disposition of assets and liabilities.

Upon disestablishment of a district any proceeds of the parking and business improvement fund, or any assets acquired with such fund, or liabilities incurred as a result of the formation, operation or management of such district, shall be subject to disposition as the governing authority shall determine, provided, however, any liabilities, either current or future, incurred as a result of action taken to accomplish the purpose of the district shall not be an obligation of the general fund or any other special fund of the county or municipality, but such liabilities shall be provided for entirely from available monies in the parking and business improvement fund of the county or municipality disestablishing any district.

**History:** C. 1953, 11-24-14, enacted by L. 1979, ch. 41, § 1.

## CHAPTER 25

### RESIDENTIAL REHABILITATION ACT

Section	Section
11-25-1. Short title.	11-25-13. Challenge of program, plan, or area — Limitation.
11-25-2. Legislative findings — Liberal construction.	11-25-14. Trust to secure bonds — Contents of agreement or bond resolution — Indemnity bonds or securities — Expenses of trust.
11-25-3. Definitions.	11-25-15. Proceedings for enforcement of rights of bondholders and trustees.
11-25-4. Location and character of rehabilitation — Financial assistance.	11-25-16. Refunding bonds — Issuance — Proceeds — Investments.
11-25-5. Bonds or notes — Issuance — Purposes — Payment — Maturity of bond anticipation notes.	11-25-17. Residential rehabilitation bonds as investments or deposits.
11-25-6. Fees, charges and interest rates — Contract for collections — Security — Payment — Assignments.	11-25-18. Financing provided to participating parties — Agreements — Contents.
11-25-7. Expenditures for services and advisers.	11-25-19. Loan agreements with participating parties — Contents — Rates, fees, and charges — Purposes.
11-25-8. General powers of agency.	11-25-20. Moneys received as trust funds — Depository as trustee.
11-25-9. Bonds payable solely from revenues — Cities, towns and counties not obligated.	11-25-21. Act deemed supplemental to other laws — Compliance in issuing bonds sufficient.
11-25-10. Rules and regulations — Acquisition and disposal of interests in property.	
11-25-11. Comprehensive financing program ordinance — Contents.	
11-25-12. Equal opportunity requirements.	



### 11-25-1. Short title.

This act shall be known and may be cited as the "Utah Residential Rehabilitation Act."

**History:** L. 1977, ch. 276, § 1.

**Meaning of "this act".** — The term "this act," referred to in this section, apparently

refers to Laws 1977, ch. 276, which enacted this section and §§ 11-25-2 to 11-25-21.

### 11-25-2. Legislative findings — Liberal construction.

The legislature finds and declares that it is necessary for the welfare of the state and its inhabitants that redevelopment agencies be authorized within cities, towns or counties, or cities or towns and counties to make long-term, low-interest loans to finance residential rehabilitation in selected residential areas in order to encourage the upgrading of property in those areas. Unless such agencies provide some form of assistance to finance residential rehabilitation, many residential areas will deteriorate at an accelerated pace. This act shall be liberally construed to effect its purposes.

**History:** L. 1977, ch. 276, § 2.

**Meaning of "this act".** — See the note under this catchline under § 11-25-1.

### 11-25-3. Definitions.

As used in this act:

(1) "Bonds" mean any bonds, notes, interim certificates, debentures, or other obligations issued by an agency pursuant to this part and which are payable exclusively from the revenues, as defined in Subdivision (9) of this section, and from any other funds specified in this part upon which the bonds may be made a charge and from which they are payable.

(2) "Citizen participation" means action by the agency to provide persons who will be affected by residential rehabilitation financed under the provisions of this part with opportunities to be involved in planning and carrying out the residential rehabilitation program. "Citizen participation" shall include, but not be limited to, all of the following:

(a) Holding a public meeting prior to considering selection of the area for designation.

(b) Consultation with representatives of owners of property in, and residents of, a residential rehabilitation area, in developing plans for public improvements and implementation of the residential rehabilitation program.

(c) Dissemination of information relating to the time and location of meetings, boundaries of the proposed residential rehabilitation area, and a general description of the proposed residential rehabilitation program.

Public meetings and consultations shall be conducted by an official designated by the agency. Public meetings shall be held at times and places convenient to residents and property owners.

(3) "Financing" means the lending of moneys or any other thing of value for the purpose of residential rehabilitation.

(4) "Agency" means a redevelopment agency functioning pursuant to § 11-19-3.

(5) "Participating party" means any person, company, corporation, partnership, firm, agency, political subdivision of the state, or other entity or group of entities requiring financing for residential rehabilitation pursuant to the provisions of this part. No elective officer of the state or any of its political subdivisions shall be eligible to be a participating party under the provision of this part.

(6) "Residential rehabilitation" means the construction, reconstruction, renovation, replacement, extension, repair, betterment, equipping, developing, embellishing, or otherwise improving residences consistent with standards of strength, effectiveness, fire resistance, durability, and safety, so that the structures are satisfactory and safe to occupy for residential purposes and are not conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime because of any one or more of the following factors:

(a) defective design and character of physical construction,

(b) faulty interior arrangement and exterior spacing,

(c) high density of population and overcrowding,

(d) inadequate provision for ventilation, light, sanitation, open spaces, and recreation facilities,

(e) age, obsolescence, deterioration, dilapidation, mixed character, or shifting of uses, and

(f) economic dislocation, deterioration, or disuse, resulting from faulty planning.

(7) "Residence" means a residential structure in residential rehabilitation areas. It also means a commercial structure which, in the judgment of the agency, is an integral part of a residential neighborhood.

(8) "Rehabilitation standards" mean the applicable local or state standards for the rehabilitation of buildings located in residential rehabilitation areas, including any higher standards adopted by the agency as part of its residential rehabilitation financing program.

(9) "Revenues" mean all amounts received as repayment of principal, interest, and all other charges received for, and all other income and receipts derived by, the agency from the financing of residential rehabilitation, including moneys deposited in a sinking, redemption, or reserve fund or other fund to secure the bonds or to provide for the payment of the principal of, or interest on, the bonds and such other moneys as the legislative body may, in its discretion, make available therefor.

(10) "Residential rehabilitation area" means the geographical area designated by the agency as one for inclusion in a comprehensive residential rehabilitation financing program pursuant to the provisions of this act.

**History:** L. 1977, ch. 276, § 3.

**Meaning of "this act".** — See the note under this catchline following § 11-25-1.

**11-25-4. Location and character of rehabilitation — Financial assistance.**

An agency may determine the location and character of any residential rehabilitation to be financed under the provisions of this part and may lend financial assistance to any participating part for the purpose of financing residential rehabilitation in areas designated as residential rehabilitation areas by the agency.

History: L. 1977, ch. 276, § 4.

**11-25-5. Bonds or notes — Issuance — Purposes — Payment — Maturity of bond anticipation notes.**

An agency may, from time to time, issue its negotiable bonds or notes for the purpose of financing residential rehabilitation as authorized by this act and for the purpose of funding or refunding these bonds or notes in the same manner as it may issue other bonds or notes as provided in §§ 11-19-23.2 through 11-19-23.8 and §§ 11-19-25 through 11-19-28. Every issue of its bonds shall be a special obligation of the agency payable from all or any part of the revenues specified in the act or funds legally received by the agency. In anticipation of the sale of the bonds, the agency may issue negotiable bond anticipation notes in accordance with § 11-14-19.5, and may renew such notes from time to time. Bond anticipation notes may be paid from the proceeds of sale of the bonds of the agency in anticipation of which they were issued. Bond anticipation notes and agreements relating thereto and the resolution or resolutions authorizing the notes and agreements may obtain any provisions, conditions, or limitations which a bond, agreement relating thereto, or bond resolution of the agency may contain except that any note or renewal thereof shall mature at a time not later than five years from the date of the issuance of the original note.

History: L. 1977, ch. 276, § 5.

**11-25-6. Fees, charges and interest rates — Contract for collections — Security — Payment — Assignments.**

The agency may fix fees, charges, and interest rates for financing residential rehabilitation and may from time to time revise these fees, charges, and interest rates to reflect changes in interest rates on the agency's bonds, losses due to defaults, changes in loan servicing charges, or other expenses related to administration of the residential rehabilitation financing program. The agency may collect interest and principal together with the fees and charges incurred in financing and may contract to pay any person, partnership, association, corporation, or public agency with respect thereto. The agency may hold deeds of trust as security for financing residential rehabilitation and may pledge the same as security for repayment of bonds issued pursuant to this part. The agency may establish the terms and conditions for the financing of residential rehabilitation undertaken pursuant to this act.

The full amount owed on any loan for residential rehabilitation made pursuant to this part shall be due and payable upon sale or other transfer of ownership of the property subject to such rehabilitation, except that assignment of the loan to the buyer or transferee may be permitted in case of hardship, which shall be defined, and procedures established for the determination of their existence in guidelines established by the agency.

**History:** L. 1977, ch. 276, § 6.

**Meaning of "this act".** — See the note under this catchline following § 11-25-1.

### **11-25-7. Expenditures for services and advisers.**

The agency may employ engineering, architectural, accounting, collection, or other services, including services in connection with the servicing of loans made to participating parties, as may be necessary in the judgment of the agency for the successful financing of such residential rehabilitation. The agency may pay the reasonable costs of consulting engineers, architects, accountants, and construction experts, if, in the judgment of the agency, such services are necessary to the successful financing of any residential rehabilitation and if the agency is not able to provide such services. The agency may employ and fix the compensation of financing consultants, bond counsel, and other advisers as may be necessary in its judgment to provide for the issuance and sale of any bonds or bond anticipation notes of the agency.

**History:** L. 1977, ch. 276, § 7.

### **11-25-8. General powers of agency.**

In addition to all other powers specifically granted by this part, the agency may do all things necessary or convenient to carry out the purposes of this act.

**History:** L. 1977, ch. 276, § 8.

**Meaning of "this act".** — See the note under this catchline following § 11-25-1.

### **11-25-9. Bonds payable solely from revenues — Cities, towns and counties not obligated.**

Revenues shall be the sole source of funds pledged by the agency for repayment of its bonds. Bonds issued under the provisions of this part shall not be deemed to constitute a debt or liability of the agency or a pledge of the faith and credit of the agency but shall be payable solely from revenues. The issuance of bonds shall not directly, indirectly, or contingently obligate a city, town or county, or a city or town and county which has designated its governing body as an agency to levy or pledge any form of taxation or to make any appropriation for payment of bonds issued by an agency.

History: L. 1977, ch. 276, § 9.

### **11-25-10. Rules and regulations — Acquisition and disposal of interests in property.**

All residential rehabilitation shall be constructed or completed subject to the rules and regulations of the agency. An agency may acquire by deed, purchase, lease, contract, gift, devise, or otherwise any real or personal property, structures, rights, rights-of-way, franchises, easements, and other interests in lands necessary or convenient for the financing of residential rehabilitation, upon such terms and conditions as it deems advisable, and may lease, sell, or dispose of the same in such manner as may be necessary or desirable to carry out the objectives and purposes of this act.

History: L. 1977, ch. 276, § 10.

Meaning of "this act". — See the note under this catchline following § 11-25-1.

### **11-25-11. Comprehensive financing program ordinance — Contents.**

Prior to the issuance of any bonds or bond anticipation notes of the agency for residential rehabilitation, the agency shall by ordinance adopt a comprehensive residential rehabilitation financing program which shall include, but is not limited to, the following items:

(1) Criteria for selection of residential rehabilitation areas by the agency which shall include findings by the agency that:

(a) There are a substantial number of deteriorating structures in the area which do not conform to community standards for decent, safe, sanitary housing.

(b) Financial assistance from the agency for residential rehabilitation is necessary to arrest the deterioration of the area.

(c) Financing of residential rehabilitation in the area is economically feasible. These findings are not required, however, when the residential rehabilitation area is located within the boundaries of a project area covered by a project area redevelopment plan adopted in accordance with § 11-19-20.

(2) Procedures for selection of residential rehabilitation areas by the agency which shall include:

(a) Provisions for citizen participation in selection of residential rehabilitation areas.

(b) Provisions for a public hearing by the agency prior to selection of any particular residential rehabilitation area.

(3) A commitment that rehabilitation standards will be enforced on each residence for which financing is provided.

(4) Guidelines for financing residential rehabilitation which shall be subject to the following limitations:

(a) Outstanding loans on the property to be rehabilitated including the amount of the loans for rehabilitation, shall not exceed 80% of the anticipated after-rehabilitation value of the property to be rehabilitated, except that the agency may authorize loans of up to 95% of the



anticipated after-rehabilitation value of the property if loans are made for the purpose of rehabilitating the property for residential purposes, there is demonstrated need for such higher limit, and there is a high probability that the value of the property will not be impaired during the term of the loan.

(b) The maximum repayment period for residential rehabilitation loans shall be 20 years or three-fourths of the economic life of the property, whichever is less.

(c) The maximum amount loan for rehabilitation for each dwelling unit and for each commercial unit which is, or is part of a "residence" within the meaning of that term as defined in this part, shall be \$17,500.

(5) A requirement that a plan for public improvements necessary to successful rehabilitation of the residential rehabilitation area be developed, with citizen participation, for each residential rehabilitation area and that the plan for public improvements be adopted by the agency prior to the financing of residential rehabilitation in any residential rehabilitation area, together with a commitment that, subject to budgetary and fiscal limitations, this plan will be carried out by the agency.

History: L. 1977, ch. 276, § 11.

### **11-25-12. Equal opportunity requirements.**

The agency shall require that any residence which is rehabilitated with financing obtained under this part shall, until that financing is repaid, be open, upon sale or rental of any portion thereof, to all regardless of race, creed, color, sex, marital status, or national origin. The agency shall also require that contractors and subcontractors engaged in residential rehabilitation financed under this part shall provide equal opportunity for employment, without discrimination as to race, color, creed, sex, marital status, or national origin. All contracts and subcontracts for residential rehabilitation financed under this part shall be let without discrimination as to race, color, creed, sex, marital status, or national origin.

History: L. 1977, ch. 276, § 12.

### **11-25-13. Challenge of program, plan, or area — Limitation.**

Any action challenging the legality of a comprehensive residential rehabilitation financing program, the selection of a residential rehabilitation area, or the adoption of a plan for public improvements for a residential rehabilitation area shall be commenced within 30 days of the publication of the resolution, ordinance, or other proceedings adopting the program or plan, or selecting the area. After this time no one shall have any cause of action to contest the regularity, formality or legality thereof for any cause whatsoever.

History: L. 1977, ch. 276, § 13.

#### **11-25-14. Trust to secure bonds — Contents of agreement or bond resolution — Indemnity bonds or securities — Expenses of trust.**

In the discretion of the agency, any bonds issued under the provisions of this part may be secured by a trust agreement by and between the agency and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without this state. The trust agreement or the resolution providing for the issuance of bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged, and may convey or mortgage any residence the rehabilitation of which is to be financed out of the proceeds of the bonds. Such trust agreement or resolution providing for the issuance of bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including such provisions as may be included in any resolution or resolutions of the agency authorizing the issuance of bonds. Any bank or trust company doing business under the laws of this state which may act as depository of the proceeds of bonds or of revenues or other moneys may furnish such indemnity bonds or pledge such securities as may be required by the agency. Any trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual rights of action by bondholders. In addition to the foregoing, any trust agreement or resolution may contain such other provisions as the agency may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of the trust agreement or resolution may be created as a part of the cost of residential rehabilitation.

History: L. 1977, ch. 276, § 14.

#### **11-25-15. Proceedings for enforcement of rights of bondholders and trustees.**

Any holder of bonds issued under the provisions of this part or any of the coupons appertaining thereto, and the trustee or trustees appointed pursuant to any resolution authorizing the issuance of the bonds, except to the extent the rights thereof may be restricted by the resolution authorizing the issuance of the bonds, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect or enforce any and all rights specified in the laws of the state or in the resolution, and may enforce and compel the performance of all duties required by this part or by such resolution to be performed by the agency or by any officer, employee, or agent thereof, including the fixing, charging, and collecting of rates, fees, interest and charges authorized and required by the provisions of the resolution to be fixed, established, and collected.

History: L. 1977, ch. 276, § 15.

### **11-25-16. Refunding bonds — Issuance — Proceeds — Investments.**

(1) The agency may provide for the issuance of the bonds of the agency for the purpose of refunding any bonds of the agency then outstanding including the payment of any redemption premiums thereof and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of such bonds, and, if deemed advisable by the agency, for the additional purpose of paying all or any part of the cost of additional residential rehabilitation.

(2) The proceeds of bonds issued for the purpose of refunding any outstanding bonds may, in the discretion of the agency, be applied to the purchase or retirement at maturity or redemption of such outstanding bonds, either at their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and may, pending such application, be placed in escrow, to be applied to the purchase or retirement at maturity or redemption on such date as may be determined by the agency.

(3) Pending use for purchase, retirement at maturity, or redemption of outstanding bonds, any proceeds held in escrow pursuant to Subdivision (2) may be invested and reinvested as provided in the resolution authorizing the issuance of the bonds. Any interest or other increment earned or realized on an investment may also be applied to the payment of the outstanding bonds to be refunded. After the terms of the escrow have been fully satisfied and carried out any balance of such proceeds and any interest or increment earned or realized from the investment thereof may be returned to the agency to be used by it for any lawful purpose.

(4) That portion of the proceeds of any bonds designated for the purpose of paying all or any part of the cost of additional residential rehabilitation pursuant to Subdivision (1) may be invested and reinvested in obligations of, or guaranteed by, the United States of America or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing not later than the time or times when such proceeds will be needed for the purpose of paying all or any part of such cost.

(5) All bonds issued pursuant to this section shall be subject to the provisions of this part in the same manner and to the same extent as other bonds issued pursuant to this act.

History: L. 1977, ch. 276, § 16.

Meaning of "this act". — See the note under this catchline following § 11-25-1.

### **11-25-17. Residential rehabilitation bonds as investments or deposits.**

Notwithstanding any other provisions of law, bonds issued pursuant to this part shall be legal investments for all trust funds, the funds of insurance companies, savings and loan associations, investment companies and banks,

both savings and commercial, and shall be legal investments for executors, administrators, trustees, and all other fiduciaries. The bonds shall be legal investments for state school funds and for any fund which may be invested in county, municipal, or school district bonds, and the bonds shall be deemed to be securities which may properly and legally be deposited with, and received by, any state or municipal officer or by any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter be, authorized by law, including deposits to secure public funds.

History: L. 1977, ch. 276, § 17.

### **11-25-18. Financing provided to participating parties — Agreements — Contents.**

The agency may provide financing to any participating party for the purpose of residential rehabilitation authorized pursuant to a comprehensive residential rehabilitation financing program. All agreements for this financing shall provide that the design of the residential rehabilitation shall be subject to such standards as may be established by the agency and that the work of such residential rehabilitation shall be subject to such supervision as the agency deems necessary.

History: L. 1977, ch. 276, § 18.

### **11-25-19. Loan agreements with participating parties — Contents — Rates, fees, and charges — Purposes.**

The agency may enter into loan agreements with any participating party relating to residential rehabilitation of any kind or character. The terms and conditions of the loan agreements may be as mutually agreed upon. Any loan agreement may provide the means or methods by which any mortgage taken by the agency shall be discharged, and it shall contain such other terms and conditions as the agency may require. The agency is authorized to fix, revise, charge, and collect interest and principal and all other rates, fees, and charges with respect to financing of residential rehabilitation. These rates, fees, charges, and interest shall be fixed and adjusted so that the aggregate of the rates, fees, charges, and interest will provide funds sufficient with other revenues and moneys which it is anticipated will be available therefor, if any, to do all of the following:

- (1) Pay the principal of and interest on outstanding bonds of the agency issued to finance such residential rehabilitation as the same shall become due and payable.

- (2) Create and maintain reserves required or provided for in any resolution authorizing such bonds. A sufficient amount of the revenues derived from residential rehabilitation may be set aside at such regular intervals as may be provided by the resolution in a sinking or other similar fund, which is hereby pledged to, and charged with, the payment of the principal of and interest on the bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or

purchase as therein provided. The pledge shall be valid and binding from the time the pledge is made. The rates, fees, interest, and other charges, revenues, or moneys so pledged and thereafter received by the local agency shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the agency, irrespective of whether the parties have notice thereof. Neither the resolution nor any loan agreement by which a pledge is created need be filed or recorded except in the records of the agency. The use and disposition of moneys to the credit of the sinking or other similar fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds. Except as may otherwise be provided in the resolution, the sinking or other similar fund may be a fund for all bonds of the agency issued to finance the rehabilitation of the residence of a particular participating party without distinction or priority. The agency, however, in any resolution may provide that the sinking or other similar fund shall be the fund for a particular residential rehabilitation project or projects and for the bonds issued to finance such residential rehabilitation project or projects and may, additionally, authorize and provide for the issuance of bonds having a lien with respect to the security authorized by this section which is subordinate to the lien of other bonds of the agency, and, in this case, the agency may create separate sinking or other similar funds securing the bonds having the subordinate lien.

(3) Pay operating and administrative costs of the agency incurred in the administration of the program authorized by this part.

History: L. 1977, ch. 276, § 19.

### **11-25-20. Moneys received as trust funds — Depository as trustee.**

All moneys received pursuant to the provisions of this part, whether proceeds from the sale of bonds or revenues, shall be deemed to be trust funds to be held and applied solely as provided in this part. Any bank or trust company in which these moneys are deposited shall act as trustee of the moneys and shall hold and apply the same for the purposes specified in this part, subject to the terms of the resolution authorizing the bonds.

History: L. 1977, ch. 276, § 20.

### **11-25-21. Act deemed supplemental to other laws — Compliance in issuing bonds sufficient.**

This act shall be deemed to provide a complete, additional, and alternative method for doing the things authorized thereby, and shall be regarded as supplemental and additional to the powers conferred upon an agency by other laws. The issuance of bonds and refunding bonds under the provisions of this part need not comply with the requirements of any other law applicable to the issuance of bonds.



History: L. 1977, ch. 276, § 21.

## CHAPTER 26

# LOCAL TAXATION OF UTILITIES LIMITATION

### Section

11-26-1. Ceiling taxes and charges based on gross revenue of utility — Sales and use taxes exempt.

### Section

11-26-2. Exemption of municipality from taxation limitation.

### 11-26-1. Ceiling taxes and charges based on gross revenue of utility — Sales and use taxes exempt.

(1) Notwithstanding any other provision of law, no county or municipality may impose upon, charge or collect from a public utility or other person or entity engaged in the business of supplying telephone service, gas or electric energy service, any tax, license, fee, license fee, license tax or similar charge, or any combination thereof, based upon the gross revenues of such utility, person or entity derived from sales or use or both sales and use of such service within the county or municipality, which charges total more than 6% of gross revenues.

(2) This section shall not be construed to affect or limit the power of counties or municipalities to impose sales and use taxes under Chapter 9 of Title 11. This section shall not be construed to grant any county or municipality the power to impose a tax, license, fee, license fee, license tax, or similar charge not otherwise provided for by law.

History: L. 1981, ch. 214, § 1.

Effective Dates. — Section 3 of Laws 1981,

ch. 214 provided: "This act shall take effect on January 1, 1982."

### COLLATERAL REFERENCES

Am. Jur. 2d. — 71 Am. Jur 2d State and Local Taxation §§ 438 to 442.

C.J.S. — 84 C.J.S. Taxation §§ 159, 184.

A.L.R. — Exemption, from sales or use tax,

of water, oil, gas, other fuel, or electricity provided for residential purposes, 15 A.L.R.4th 269.

### 11-26-2. Exemption of municipality from taxation limitation.

A municipality is exempt from this limit by a majority vote of its voters voting in a municipal election.

History: L. 1981, ch. 214, § 2.

Effective Dates. — Section 3 of Laws 1981,

ch. 214 provided: "This act shall take effect on January 1, 1982."